

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

RICHARD ANTHONY NEVAREZ-BARELA,

Plaintiff,

vs.

No. CV 18-00851 WJ/GBW

FNU LNU,

Defendant.

**MEMORANDUM OPINION AND ORDER OF DISMISSAL**

**THIS MATTER** is before the Court *sua sponte* under Fed. R. Civ. P. 41(b) on the Complaint filed by Plaintiff Richard Anthony Nevarez-Barela (Doc. 1). The Court will dismiss the Complaint without prejudice for failure to comply with a Court order and failure to prosecute.

The record reflects that certain mailings to Plaintiff Richard Anthony Nevarez-Barela were returned as undelivered (*see* Doc. 3, 5). It appeared that Plaintiff had been transferred or released from custody without advising the Court of his new address, as required by D.N.M. LR-Civ. 83.6, thus severing contact with the Court. Although not obligated to do so, the Court conducted an investigation and determined that Plaintiff Nevarez-Barela appeared to currently be incarcerated at FCI Florence.

The Court then issued an Order to Show Cause on November 2, 2018, directing Nevarez-Barela to notify the Court of a new address, or otherwise show cause why the case should not be dismissed, within 21 days of entry of the Order. (Doc. 6). The Order to Show Cause was mailed to Nevarez-Barela at his address of record and to FCI Florence. Additional mail, including the copy of the Court's Order to Show Cause mailed to Nevarez-Barela's address of record, was

returned as undelivered. (Doc. 7, 8). More than 21 days has elapsed since entry of the Order to Show Cause and Nevarez-Barela has not provided the Court with a new address, responded to the Court's Order, or otherwise shown cause why the case should not be dismissed.

Pro se litigants are required to follow the federal rules of procedure and simple, nonburdensome local rules. *See Bradenburg v. Beaman*, 632 F.2d 120, 122 (10<sup>th</sup> Cir. 1980). The local rules require litigants, including prisoners, to keep the Court apprised of their proper mailing address and to maintain contact with the Court. D.N.M. LR-Civ. 83.6. Plaintiff Nevarez-Barela has failed to comply with D.N.M. LR-Civ. 83.6 and with the Court's November 2, 2018 Order to Show Cause.<sup>1</sup>

Plaintiff Nevarez-Barela has failed to comply with the Court's order and failed to prosecute this action by not keeping the Court apprised of his current address. The Court may dismiss an action under Fed. R. Civ. P. 41(b) for failure to prosecute, to comply with the rules of civil procedure, or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n. 3 (10<sup>th</sup> Cir. 2003). Therefore, the Court will dismiss this civil proceeding pursuant to Rule 41(b) for failure to comply with the Court's Order and failure to prosecute this proceeding.

**IT IS ORDERED** that the Complaint filed by Plaintiff Richard Anthony Nevarez-Barela (Doc. 1) is **DISMISSED** without prejudice under Fed. R. Civ. P. 41(b) for failure to comply with the Court's Order and failure to prosecute.

  
\_\_\_\_\_  
CHIEF UNITED STATES DISTRICT JUDGE

---

<sup>1</sup> Nevarez-Barela also has never complied with the Court's October 22, 2018 Order to Cure Deficiency (Doc. 4).